

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHN GILBERT,

Plaintiff,

v.

APC NATCHIQ, INC.,

Defendant.

Case No. 3:03-CV-00174-RRB

DEPOSITION OF JOHN D. GILBERT
June 7, 2006

APPEARANCES:

FOR THE PLAINTIFF:

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FOR THE DEFENDANT:

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ALSO PRESENT:

MR. DOUGLAS SMITH

* * * *

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1 national labs. Like where I currently work you have to
2 have radiological one and radiological two training in
3 order to work there.

4 Q And the training teaches you safety and how to deal
5 with it?

6 A Correct.

7 Q Okay. And you had that.....

8 A Evacuation procedures and so forth.

9 Q And Geoprobe, what is that?

10 A That's just a small drilling rig. It allows you to do
11 subsurface sampling of soil and water. It's a tract
12 drilling rig is all it is.

13 Q Okay. At the time that you came to work with APC as a
14 safety specialist, which would have been back in
15 January of '01, did you believe that you had the
16 qualifications to work as a safety specialist as
17 described by APC?

18 A I did after they hired me. Yes -- yes, I did.

19 Q Okay. Did you feel competent in carrying out the job
20 in a safe and competent and professional manner?

21 A Yes.

22 Q Okay. And you feel that you had had the prior
23 training, or they provided you with the training
24 necessary in order to do that?

A I felt that I probably had enough background to do it

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1 from my previous jobs.

2 Q Okay. How about the safety supervisor position after
3 working for APC and with your background, did you
4 believe that you had the background and education to be
5 able to carry out the responsibilities of that
6 position?

7 A Yes. I don't believe that the responsibilities of that
8 position were any different than the responsibilities
9 of the safety specialist.

10 Q Okay. Do you think it's the same job?

11 A Pretty close. Yes, any of the safety specialists could
12 have done the same job that I was doing as the safety
13 supervisor. And, in fact, we did at times rotate
14 through and other guys filled in. So I think it was
15 just an equal level job with maybe a few more caveats
16 thrown in.

17 Q Why do you think you were paid over \$100.00 a day more?

18 A That, I don't know. I think I was doing a good job for
19 them. I don't know why they paid me \$100.00 more a
20 day.

21 Q You didn't mind did you?

22 A Heck, no.

23 Q Okay. Do you believe that in carrying out your
24 position as a safety supervisor that you used your
education and background and training?

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1 A I think again there's generic items that pass through
2 all of these positions that I've had since I got out of
3 school that would assist me in doing a safety position
4 type job.

5 Q Okay. For example, it says you maintained and
6 developed special environmental programs and permits,
7 you've set up environmental programs within or a
8 specialized safety programs within APC, did you not, as
9 a supervisor?

10 A I don't know quite what you mean by specialized safety
11 programs. The programs that we had in place at APC
12 were fairly nonexistent when -- when I first got there
13 in 2001 and by the time I left they were coming
14 together. But, again, they're just a reiteration of
15 the -- of the OSHA standards kind of custom fit for the
16 work that's done up on the North Slope.

17 Q And you were involved in putting together those
18 programs -- pulling them together, is that correct?

19 A Yes.

20 Q Okay. And that was part of your job?

21 A Yes.

22 Q Yes. Was it a large part of your job?

23 A Towards the end there I spent some considerable time on
24 it. I think we all did. It was unfinished when I
left, but it was a pretty good chunk of the work, yes.

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1 A Yes.

2 Q And specialized knowledge?

3 A Yes.

4 Q And the kind of work that you were doing, both as a
5 specialist and as a supervisor, did it require
6 experience and use of your education?

7 A Yes.

8 Q And that education, is it specialized? I mean is that
9 something that I could walk out and do? I have a
10 different kind of specialized education, correct?

11 A I guess, the answer is you'd have to have specialized
12 training, but anybody can get specialized training.

13 Q Some people are more fit for certain kinds of things
14 than others.

15 A Right.

16 Q Was part of your job to interpret complex data --
17 testing data?

18 MR. COVELL: Excuse me, I've got to object as
19 to when and where he's doing that.

20 Q (By Ms. Zobel) As a safety supervisor was part of your
21 job to interpret complex data?

22 A I'm not sure I would call it complex, but we did
23 interpret data.

24 Q Okay. From testing that was done in the field?

^ A Yes.

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1 Q Okay. Was part of your responsibility though to see
2 that they were carrying those out?

3 A Yes.

4 Q Within the different areas?

5 A Yes.

6 Q Okay. And having the requirement of carrying out those
7 kinds of activities, that carries with it
8 responsibilities for people, does it not?

9 A Can you explain that to me?

10 Q Yes, that was a backwards question. I'm sorry. The
11 job had responsibilities for people's health and safety
12 and to make sure that people were operating safely,
13 correct?

14 A Correct.

15 Q Okay. And if you were wrong in the way that you
16 interpreted something, or the data, that responsibility
17 and somebody were injured, that responsibility would
18 come back to you?

19 A I suppose if a person in a safety field made a gross
20 error then yes, you could be responsible for somebody's
21 injury or illness or what have you.

22 Q Okay. And within the job you had to take CFR's and
23 OSHA requirements and you had to translate what's on
24 paper requirements into actual programs as to how they
would be performed in the field?

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1 A I would say that we took what was written in the CFR's
2 and implemented those words into the field.

3 Q Okay. And sometimes that took translation?

4 A Of course, yes.

5 Q And that's the kind of work that you were doing when
6 you were a safety supervisor, is that correct?

7 A A safety supervisor or a safety specialist, they were
8 one in the same there.

9 Q Okay.

10 A Using the CFR's the same way so --

11 Q And you were required to exercise your own judgment as
12 to what those meant?

13 A I don't know what you mean by exercise my own judgment
14 as to what they meant. I mean.....

15 Q Well you used.....

16 Athey're laid out in the CFR's so you just
17 basically read them and --

18 Q Interpret them.

19 A Interpret them I suppose, yes.

20 Q All right. And the way in which they applied though to
21 that particular situation you were using your judgment
22 as to how they would best be implemented in the field?

23 A Yes, you want to make sure you're trying to implement
24 them as they're written.

Q Okay. And within the job that you had as to -- let me

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1 rephrase that. You had responsibilities also to train
2 other people who did have your level of expertise and
3 in understanding the health and safety
4 responsibilities?

5 A Yes and no I suppose. We had a training department if
6 that's what you mean. Other employees -- we had a
7 training department that would provide training and at
8 times I assist them because I would fill in for those
9 guys providing general safety training to the
10 employees. I don't know if I gave any specific
11 training to any of the safety specialists.

12 Q Okay.

13 A If that's what you're asking, I'm not sure.

14 Q Well that -- how about lay people? Did you do any of
15 the training at all, outside of the training
16 department? Do you train the trainers, for example?

17 A No. No.

18 Q Okay. Did you help determine what the trainers would
19 be training?

20 A (No audible answer)

21 Q Does that make sense?

22 A I think I understand.

23 Q Were you setting part of the agenda that the trainers
24 would follow?

25 A Not necessarily, no.

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1 A Yes.

2 Q Okay. So you didn't have to do a lot of tweaking
3 there?

4 A No.

5 Q Now it says you have development of site specific
6 policy and procedures, was that correct?

7 A Let me catch up to you here.

8 Q I'm sorry. I'm leaping ahead of you.

9 MR. COVELL: Last sentence of the second
10 paragraph there.

11 Q (By Ms. Zobel) Responsibilities include.....

12 A Oh, okay.

13 Q Let's just take the whole paragraph or that sentence.
14 Let's start at the beginning of that paragraph.

15 A Okay.

16 Q Safety supervisor provides consultation to both
17 construction and maintenance operations, was that
18 correct?

19 A Yes.

20 Q Okay. Regarding compliance, company policies and safe
21 work practices?

22 A Yes.

23 Q Okay. And it says responsibilities include supervision
24 of six safety specialists?

25 A Yes, there was six safety specialists working there.

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1 Q And you had the responsibility to supervise them?

2 A Yes, it's a gray area in my opinion, but -- yes.

3 Q Okay. Development of site specific policies and
4 procedures?

5 A Yes, we all did that.

6 Q And risk assessments?

7 A Yes.

8 Q Incident investigations?

9 A Yes.

10 Q Audits and monitoring of ongoing activities?

11 A Yes, I'm not quite sure what that means.

12 Q For example, the activities of safety specialists, were
13 you auditing and monitoring ongoing activities by
14 safety specialties?

15 A Auditing and monitoring?

16 Q Yes or no?

17 A No.

18 Q Okay. How about auditing and monitoring of ongoing
19 activities such as the usage safety protocols?

20 A Yes.

21 Q Okay. Coordination of health surveys?

22 A Coordination of health surveys, yes.

23 Q Okay. Within this description, let me see if we can
24 establish some base line here. If I understand the way
that APC has this put together, the safety specialist

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1 question, so --

2 MS. ZOBEL: All right.

3 Q (By Ms. Zobel) I think your answer was that that did
4 not happen daily. It was something that could happen
5 that you would be called on, but it happened
6 intermittently, is that.....

7 A Correct.

8 Q All right. In general, though your job was not to do
9 those on site activities but to rather work from the
10 corporate side of the job of health, safety, and
11 environment?

12 MR. COVELL: Technically that's not a question.

13 MS. ZOBEL: Is that correct?

14 MR. COVELL: Okay. Now, that's a question.

15 MS. ZOBEL: He answers before I get to say, is
16 that correct.

17 A Okay. I'll quit.

18 MR. COVELL: That's all right.

19 Q (By Ms. Zobel) Is that correct?

20 A No.

21 Q No? Well --

22 A I don't quite understand the corporate side. I mean,
23 the way I look at my job as a safety supervisor, if I
24 may, it was not too much more than a glorified safety
25 specialist. Somebody had to be in the office to take

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1 care of all the questions that were brought to the
2 department each and every day by the rest of the field.
3 Could I -- was I qualified to do that? Yes. Were the
4 rest of the guys qualified to do that? Absolutely. We
5 were all similarly qualified to do the same job. So if
6 I wasn't in the office somebody else would have to come
7 in and fill in and do exactly what I was doing. If I
8 went to the field to get a confined space entry done,
9 somebody would have to fill in for me in the office.
10 So we would just shuffle things around and make it all
11 work. Does that answer your questions.

12 Q That's helpful. The position that you held though was,
13 if I'm understanding what you just said, was something
14 that was necessary? That it was a job that somebody
15 had to do in terms of being in the office to respond to
16 the Kuparuk project as a whole?

17 A Yes.

18 MR. COVELL: Okay. Now wait, if it's not a
19 question.....

20 MS. ZOBEL: There was a question mark at the
21 end of that one.

22 MR. COVELL: Was there? Well if it's not a
23 question don't answer it. Okay? All right. Think about
24 whether it's a question or not, if it's not a question don't
25 answer it. All right.

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1 filed in the system, and that would be that.

2 Q Okay. When you said comments in reviewing it, what
3 sort of comments would you be making?

4 A Well that's a pretty blanket statement, it could be
5 anything. You know, like a spelling error.

6 Q Oh.

7 A To, you know, that's not the way I heard it type of
8 comment, this is what I heard, you know.

9 Q Would you be making any comments regarding this
10 occurring in the future or implementing some change in
11 procedure because of this accident?

12 A It's potentially -- yes, you could make a comment that
13 says, geez, I think that from now on we ought to not,
14 you know, let guys drive 50 miles an hour on the Haul
15 Road so --

16 Q Yes.

17 A Maybe they need to drive 30, you know, so --

18 Q When you did the review of these accident reports, was
19 it as a representative of the department as a whole of
20 APC or what capacity was it?

21 A I guess it would just be another comment or I'm not so
22 sure it would be as a whole because there might be two
23 other safety specialists, you know making comments at
24 the same time, so it'd just be another comment or -- to
the investigation. I mean, my comments were not the

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1 last word.

2 Q Well I guess what I'm getting at is why did they send
3 it to you if safety specialists have already looked at
4 it, if they didn't need somebody from corporate to look
5 at it, or from whoever was a representative of the
6 department?

7 A I think it's to get more eyes on it, personally. I
8 have no good answer for you there. I mean, why did
9 they send it to the safety specialist? So it could be
10 the opposite question, so we had several people
11 involved in all of these investigations so --

Q UA's, urinalysis?

13 A Uh-huh (affirmative).

14 Q And what was your responsibility there?

15 A Let's see, we would bring the employees in for random
16 and then scheduled urinalysis and perform the entire
17 urinalysis procedure, you know.

18 Q What was your role in the urinalysis program?

19 A Same as everybody else's. You'd bring them in and
20 you'd sit them down. You'd have them fill out the
21 initial paperwork. You'd check them for contraband.
22 You'd take them in, give them the cup, watch them do
23 their thing in the cup, pull it back, make sure that
24 the temperature was correct on the cup and everything
looked okay. Then you would split the sample, load the

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1 MS. ZOBEL: Sure.

2 (Off record)

3 (On record)

4 Q (By Ms. Zobel) Going this list of areas that you're
5 reporting on, it says safety department. Let's go to
6 page 299 of this exhibit. The first bullet says blank
7 called from Soldotna regarding the 624 Safety
8 Specialist JVA. Would that be about a job or why would
9 he be calling?

10 A That -- yes, it could be about a job, I'm not sure. I
11 would -- it's hard to say.

12 Q Okay. Did people call you when they're looking for
13 employment within the safety department at Kuparuk?

14 A They could have called me, yes.

15 Q Okay. Did you have some hand in reviewing or getting
16 JVA's or the hiring process?

17 A No, I simply would take the phone call, gather up -- if
18 somebody sent a resume we'd gather it up, if we were
19 hiring. And then we -- we would as a department, I
20 guess, if -- well there's a couple of different ways it
21 could have happened. Sometimes guys would just show up
22 and say I'm working, and that would happen. Other
23 times we'd be short a hand and the word would go out,
24 hey call everybody you know and see if we can get them
up here. You know, if you know anybody. So as a group

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